

June 17, 2009
MINUTES OF THE REGULAR MEETING AND PUBLIC HEARING MEETING OF THE
BENTON COUNTY PLANNING BOARD

WHEN: June 17, 2009
TIME: 5:30 p.m.
PLACE: Benton County Administration Building, 215 East Central Avenue
Quorum Courtroom, 3rd Floor (Suite 324), Bentonville, AR 72712

MINUTES FOR REGULAR PUBLIC HEARING

1. Call to Order

2. Roll Call

The following Benton County Planning Board members were present: Scott Borman, Jim Cole, Mark Curtis, Lane Gurel, Bill Kneebone, Ken Knight and Heath Ward.

The following Benton County Planning Office staff members were present: Chris Glass, Ronette Bachert and Karen Stewart.

3. Disposition of the Minutes of May 6, 2009 technical advisory committee meeting and the May 20, 2009 public hearing meeting.

Mr. Kneebone made a motion that the minutes be accepted as distributed; Mr. Knight seconded the motion.

Mr. Borman, Mr. Cole, Mr. Curtis, Mr. Gurel, Mr. Kneebone, Mr. Knight and Mr. Ward all voted in favor of the motion; the motion was passed.

4. Reports of Planning Board members

Mr. Gurel stated that the Commercial sub-committee had come up with a draft of a matrix for a large, medium, or small business category. He added that the committee envisioned a three step process. Step 1 would be for new projects to meet with Staff and complete a matrix which would establish if the business would be classified as small, medium or large. Step 2 would be an appropriate check list of requirements to be completed. Step 3 would be the project would come before the Planning Board. Mr. Gurel added that the committee would be meeting after the public hearing. He stated that it was more of a procedural change rather than an overhaul of the regulations.

Mr. Curtis stated that they were tasked with making the process more user friendly for all those involved. He added that the idea of a matrix is a step in the right direction to make it clear where a project falls in a category and then delineate the steps needed to complete that project. Mr. Curtis stated that the projects that the Board has seen in the last few months are primarily small projects that don't need everything on the "Large Scale Development" checklist; this would have been very apparent on the front side had we had a kind of guideline.

Mr. Glass asked the committee if they had approached the idea of differing fee schedules for the various levels of commercial Projects; Mr. Gurel stated that they had discussed that issue. Mr. Glass stated that any changes to a fee schedule would require approval by the Quorum Court. Mr. Glass asked if a timeline had been established; Mr. Ward stated that according to the minutes a date in August was discussed.

Mr. Ward opened the floor for nominations for a vice chairman of the board. *Mr. Kneebone made a motion to nominate Mr. Gurel and Mr. Borman seconded the motion. All Board members approved the nomination and the motion was passed.*

5. Public Comment

Peggy Bulla of 15667 Cypress Lane in Rogers stated that the camp is a very small operation and would make a small environmental impact. She added that there would be a large instructor to child ratio. She said that she felt they would have a quiet and peaceful camp of only 8 kids and 4 instructors. She stated that there was no pool and no room for football or baseball and she felt that they would not disturb her neighbor at all.

Ms. Bulla stated that she had understood that the access would be a private road and didn't feel that it was a big issue. She added that she hoped that things could be as congenial as possible.

6. Old Business

A. Discussion – Arkansas Youth Adventures

Mr. Jimmie H. Lafayette stated that he had an easement search conducted. He added that he is opposed to the access through his property because the proposed activity would devalue his property. He stated that if any limb, tree or any other imaginable tragedy were to injure someone he could possibly be held liable.

Mr. Lafayette stated that his peace and tranquility would be interrupted by traffic noise and dust. He said that the access is only 100 feet from his house. He stated that on May 21st Ms. Bulla visited his house and he offered her access along the north border of his

property and she did not seem interested at that time. He added that there is another option for Ms. Bulla to gain access to her property through Mr. Cook's property; he accesses his property via an access way through the Ford property. He added that the access is only approximately 112 feet south of her property corner and already exists.

Mr. Lafayette stated that his attorney suggested he install a gate with a lock on the contested access near County Road 98 giving Ms. Bulla temporary access requiring that she close and relock the gate; he said that he was considering this option. Mr. Lafayette stated that if necessary he would pursue his right to enjoy the quiet use of his property by all legal means.

Mr. Curtis and Mr. Gurel asked Mr. Lafayette for clarification of access roads shown on the documents that he supplied to the Board. Mr. Gurel stated that Mr. Lafayette had mentioned that there was another possibility for access and asked Mr. Lafayette if that would be Mr. Cook's access once that has passed Mr. Lafayette's property. Mr. Lafayette agreed with Mr. Gurel's statement. Mr. Gurel added that Mr. Lafayette was suggesting that Ms. Bulla ask Mr. Ford for access in that way; Mr. Lafayette stated that Mr. Gurel was correct. Mr. Cole asked Mr. Lafayette if this would be the only option recommended. Mr. Lafayette stated that he had offered Ms. Bulla access along his north property border.

Mr. Gurel asked if the terrain was such that an access could follow the north border. Mr. Lafayette stated that it would be difficult but he felt it would be possible although he had never walked that portion of his property. Mr. Glass stated that the aerial view appeared to show a significant gully in that area. Mr. Ward stated that he had the opportunity to view the area and agreed with Mr. Glass.

Mr. Borman asked for any outstanding stipulations for the project. Mrs. Stewart outlined the following stipulations that were still outstanding:

- The Health Department must approve septic size for public occupancy; the applicant must submit documentation of this.
- Obtain a letter from the Fire Marshal regarding public safety issues such as maximum occupancy, emergency lights and emergency exits.
- Building codes for public access must be met.
- Proof of insurance must be submitted to Staff.
- Proof of property cleanup for public safety.
- The applicant must submit a site plan showing proposed parking and ingress/egress.
- Health Department approval for the kitchen must be provided to Staff.

Mr. Glass stated that the Board could make a judgment but this is a legal issue and the Board's decision would not be legally binding. Mr. Borman agreed that the issue with the easement really does not involve the Planning Board.

Ms. Bulla stated that she had purchased her property in 2004. She added that she had consulted a lawyer and received a letter of opinion from him in regards to the access being a public road in the early 1900's before the bridge was built it was also part of the gravel road that went around a steep part of the hill that reconnects with the existing road. Ms. Bulla said that she learned from her lawyer that the seven years of the road being in continual use by Mr. Bishop would be added as the number of years in which the road has been in use. Ms. Bulla said that she did not wish to incur legal fees and would

supply Mr. Lafayette a copy of the letter in hopes that he could see the benefit in using a road that has been in existence for about 100 years. She stated that she would be happy to build a fence and have the property surveyed so that Mr. Lafayette would not have any liability issues. Mr. Ward stated that the board could not resolve the matter of the access easement nor does he believe the board would approve the project until the matter is resolved. Mr. Gurel asked if the easement was a named road. Mr. Lafayette stated that it was not. Mr. Glass stated that in the case of a landlocked parcel the court will look for the most convenient way to accommodate the landlocked parcel in terms of accessibility to the county road, make a judgment and that would be the ruling. Mr. Glass stated that he was not an Arkansas attorney but he could speak in general terms in regards to legal access to a landlocked property.

Mr. Borman made a motion to table the project until the August public hearing, Mr. Curtis seconded the motion. Mr. Borman, Mr. Cole, Mr. Curtis, Mr. Gurel, Mr. Kneebone, Mr. Knight and Mr. Ward voted in favor of the motion.

7. Adjournment

The meeting was adjourned at 6:15